



# Improving Business Access by Removing Barriers

David Fenley | ADA Director

[David.fenley@state.mn.us](mailto:David.fenley@state.mn.us)

651.361.7809

Your Policy, Training and Technical Resource | [disability.state.mn.us](http://disability.state.mn.us)

# Prevalence & Economics of Disability

- 25% (1/4) of the population 15 years of age and older has a disability
- 11.9 % of the population 15 years of age and older have an ambulatory disability – that is about 35 million people
- 52% of the population 65 years of age and older has a disability
- \$490 billion of disposable income (US)
- Globally the disability community has exceeded the size of China at 1.3 billion people and control \$8 trillion dollars in annual disposable income

- Landlord and tenant have responsibilities to remove barriers
- Either or both may be sued

# Title III: What is a Public Accommodation?

Under title III of the ADA a place of public accommodation is a facility whose operations affect commerce and fall within a least one of the following 12 categories with some examples:

1. Places of lodging (inns, hotels, motels)
2. Establishments serving food or drink (restaurants and bars)
3. Places of exhibition or entertainment (movie theaters, concert halls, stadiums)
4. Places of public gathering (auditoriums, convention centers, lecture halls)

# What is a Public Accommodation? (2)

5. Sales or rental establishments (grocery stores, hardware stores, shopping centers)
6. Service establishments (dry cleaners, banks, travel services, funeral parlors, gas stations)
7. Public Transportation terminals, depots or stations
8. Places of public display or collection (museums, libraries, galleries)

# What is a Public Accommodation? (3)

9. Places of recreation (parks, zoos, amusement parks)
10. Places of education (nursery schools, elementary, secondary and higher education private schools)
11. Social service center establishments (day care centers, homeless shelters, food banks)
12. Places of exercise or recreation (gyms, spas, bowling alleys, golf courses)

# What is Readily Achievable?

- Title III of the ADA requires that businesses remove architectural barriers in existing facilities when it is “readily achievable” to do so
- Readily achievable means “easily accomplishable and able to be carried out without much difficulty or expense”
- This does not necessarily mean full compliance with the guidelines
- Determine what can be done to make the space more accessible to people with disabilities based on the resources of the business

- No grandfather provision
  - But there is a Safe Harbor provision (next slide)
- ADA is different from the state building code
- Use the state building code as your access standard
- Use WCAG 2.0 AA as you digital access standard
- Use the ADA to determine when to make changes



# Title III Safe Harbor Barrier Removal

- If existing elements comply with ADA 1991 Accessibility Guidelines, they are “safe” from further barrier removal under any stricter or new requirements
- Applies element-by-element
- Applies only if element is not altered

# Examples of Readily Achievable Barrier Removal

- Providing code compliant disability parking
- Constructing curb ramps at sidewalks and entrances
- Installing ramps
- Installing accessible door hardware
- Repositioning shelves
- Rearranging furniture, exhibits and displays

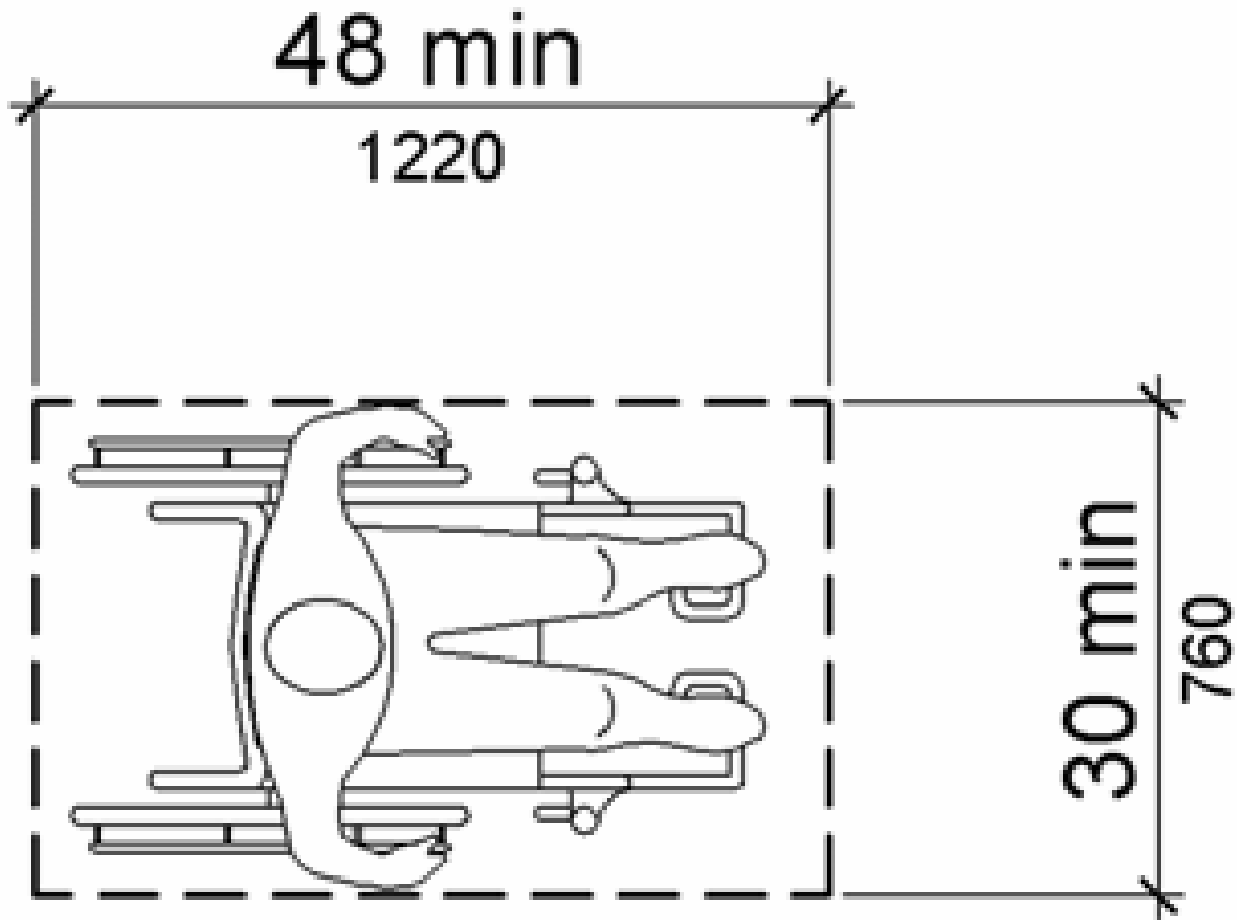
# Examples of Readily Achievable Barrier Removal (2)

- Installing grab bars in toilet areas
- Rearranging toilet partitions to increase maneuvering space
- Installing a raised toilet seat
- Installing a full-length mirror
- Widening doors
- Adding raised markings on elevator control buttons
- Restaurants: ensure there is accessible seating in every different area (low tops)

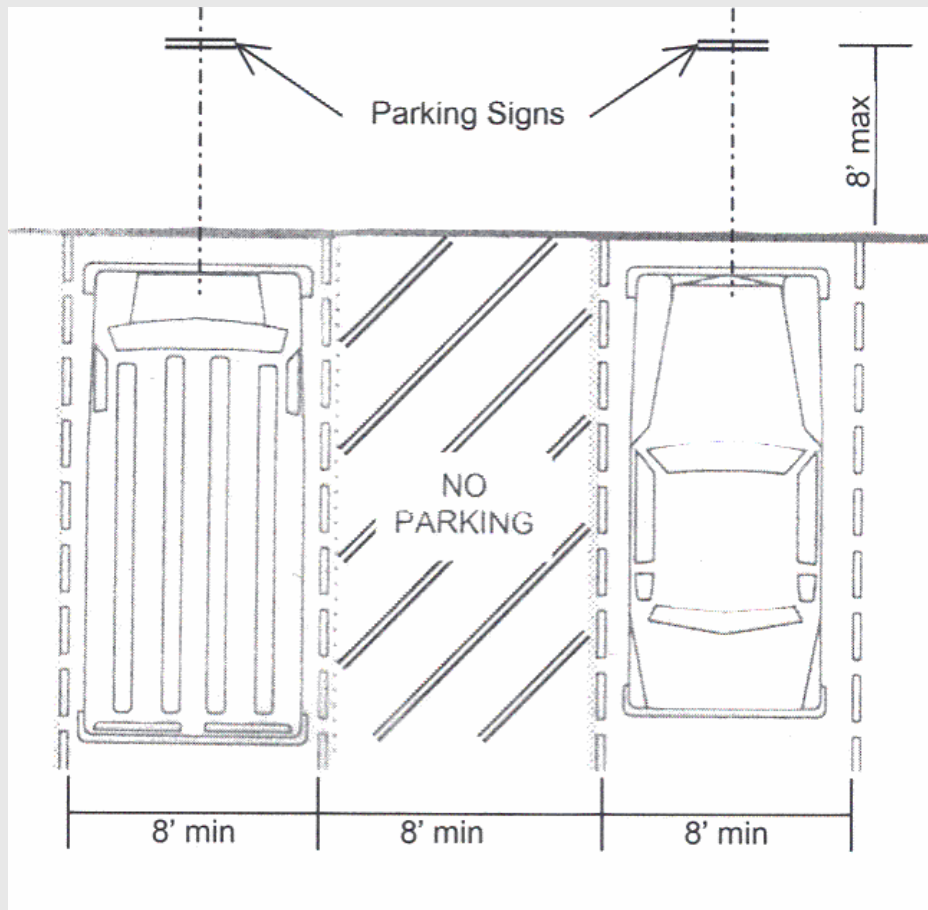
# Priorities for Barrier Removal

- Providing access to your business from public sidewalks, parking areas and public transportation
- Providing access to the goods and services your business offers
- Providing access to public restrooms
- Removing barriers to other amenities offered to the public, such as drinking fountains

# Footprint 30 x 48



# Disability Parking



- Disability parking is required at a ratio of 1:25 or a fraction thereof.
- MN code requires all access aisles to be 8' wide.

# Disability Parking Signage

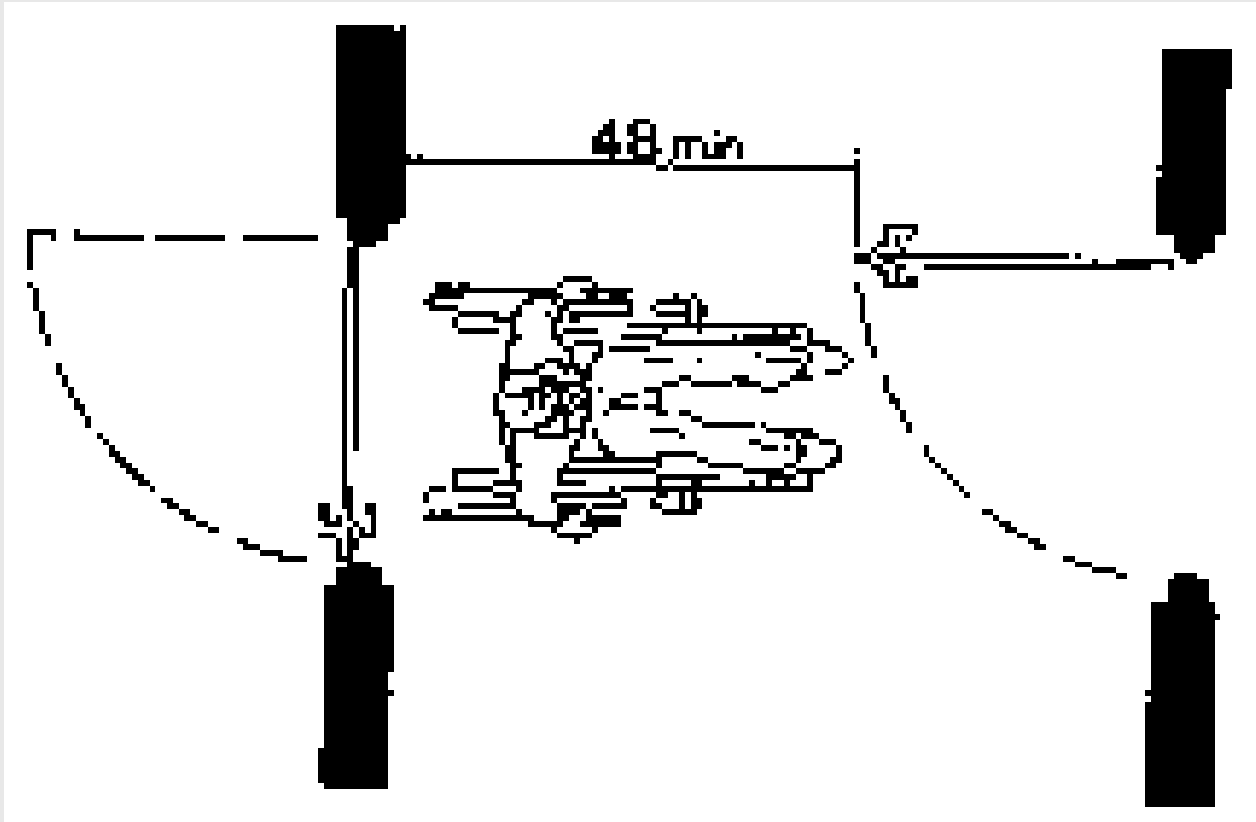


- Required signage per disability parking space.
- Centered at the head of each space.

Exterior walkway  
maximum slope  
1:20 or 5%

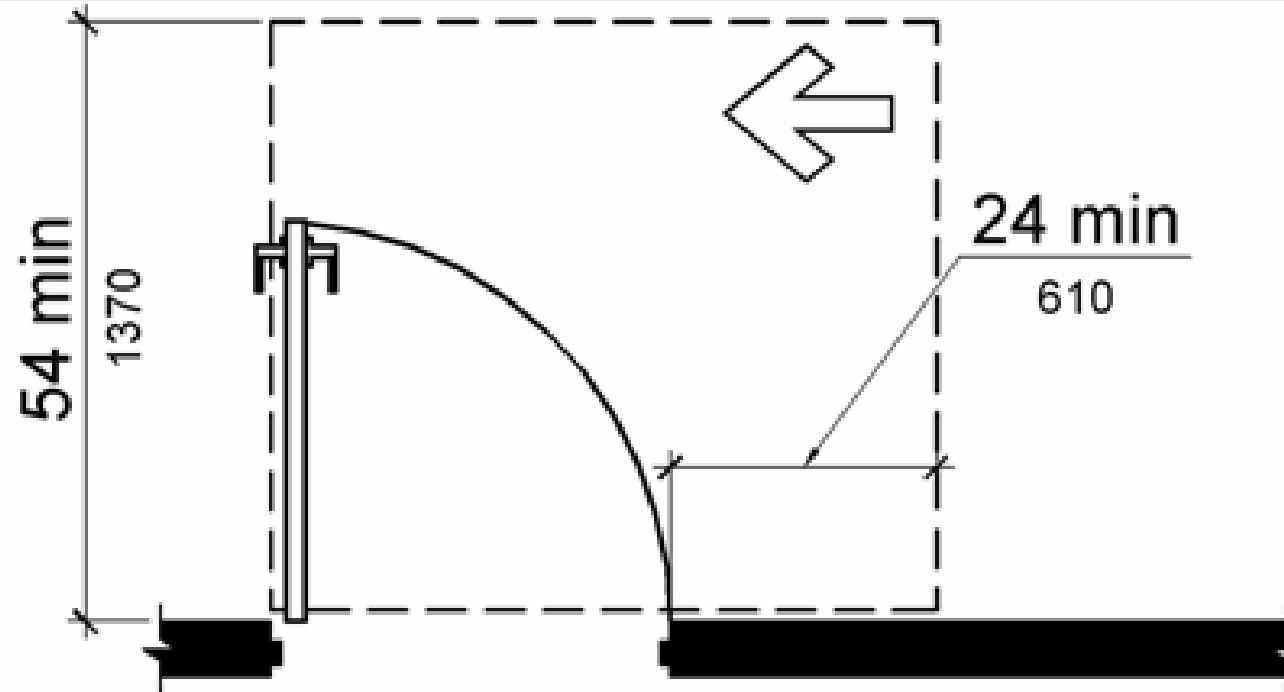


# Accessible Doorways



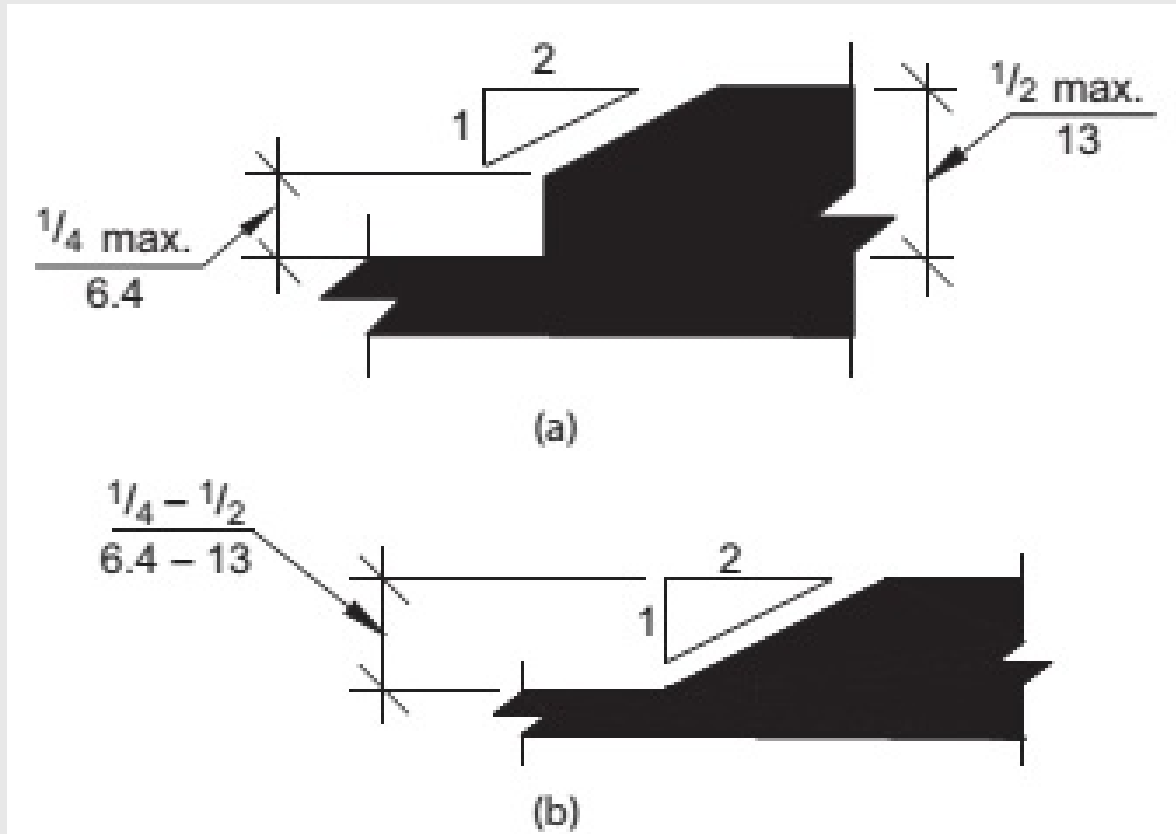
- Double entry doors should have 48 inches plus the swing of the door.
- Door clearance needs to be a minimum of 32 inches.
- Interior doors should not have more than 5lbs of pressure.

# Required Maneuvering Space



(i)  
latch approach, pull side,  
door provided with closer

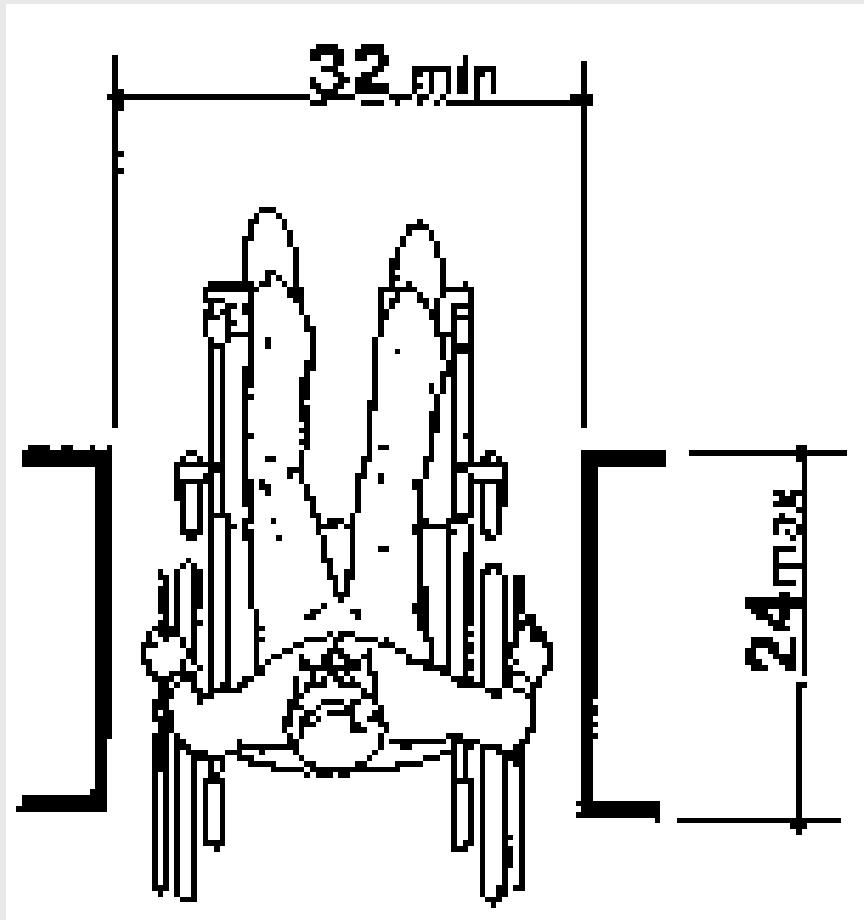
# Thresholds



Changes in level greater than  $\frac{1}{4}$  inch and not more than  $\frac{1}{2}$  inch shall be beveled

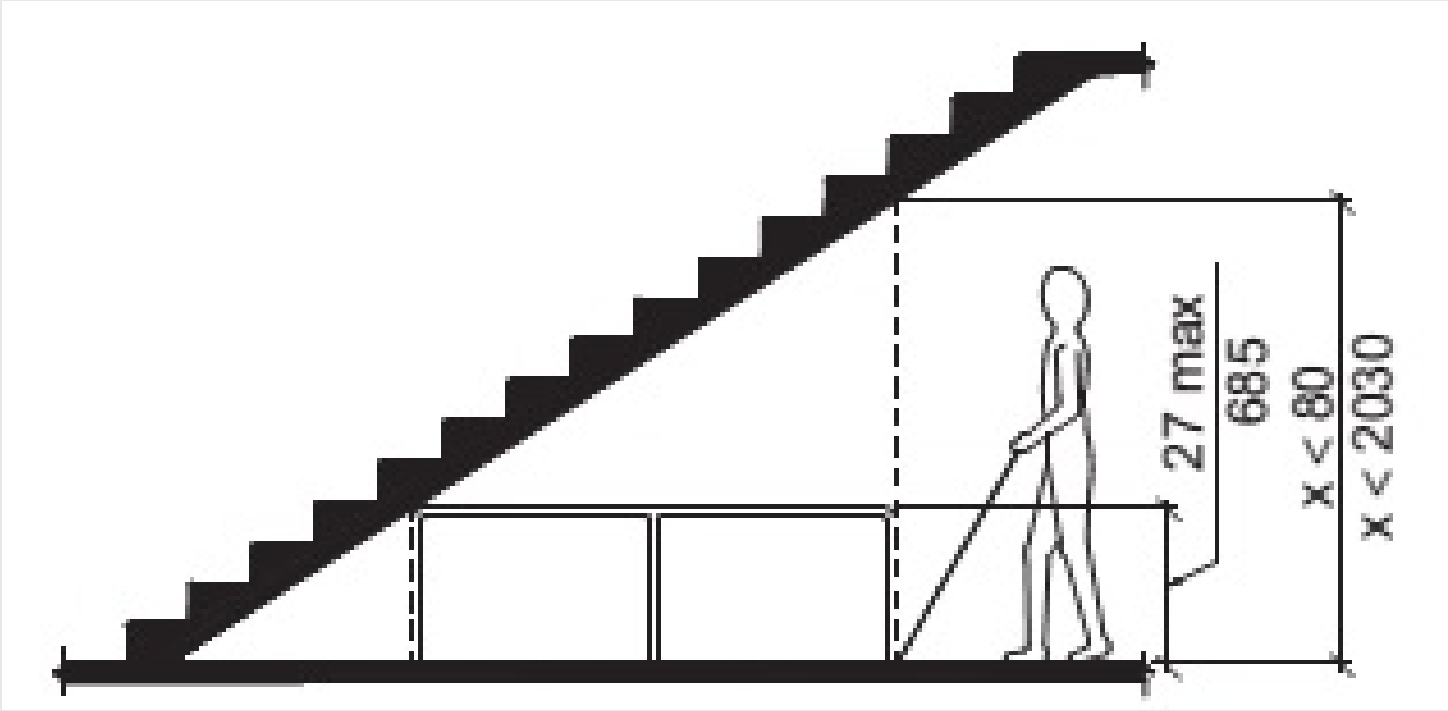
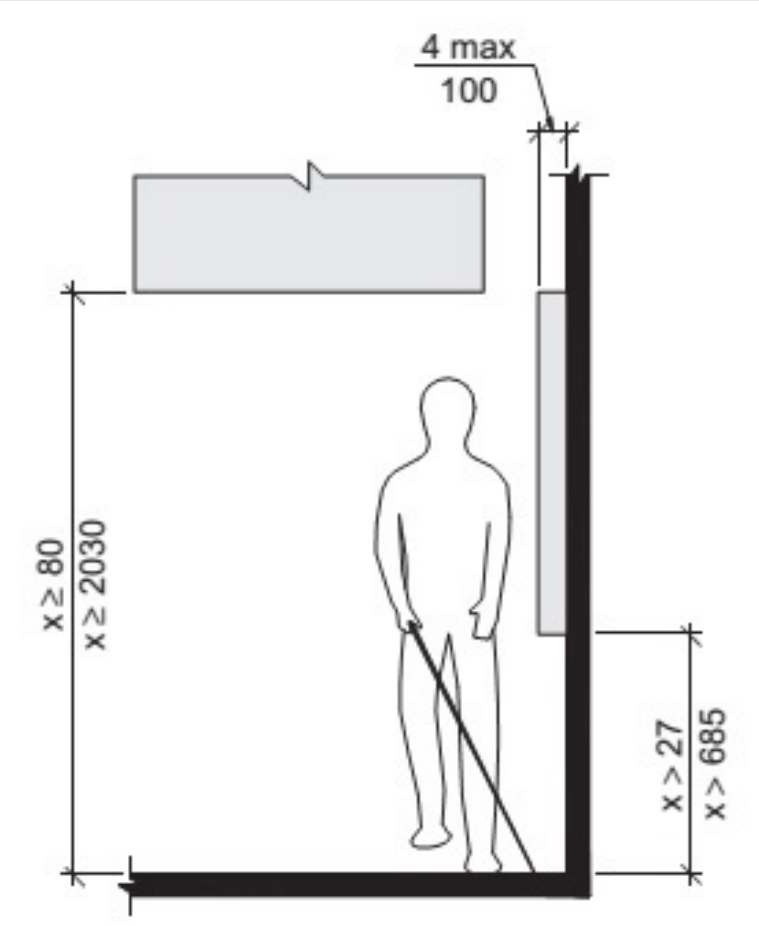


# Accessible Route of Travel

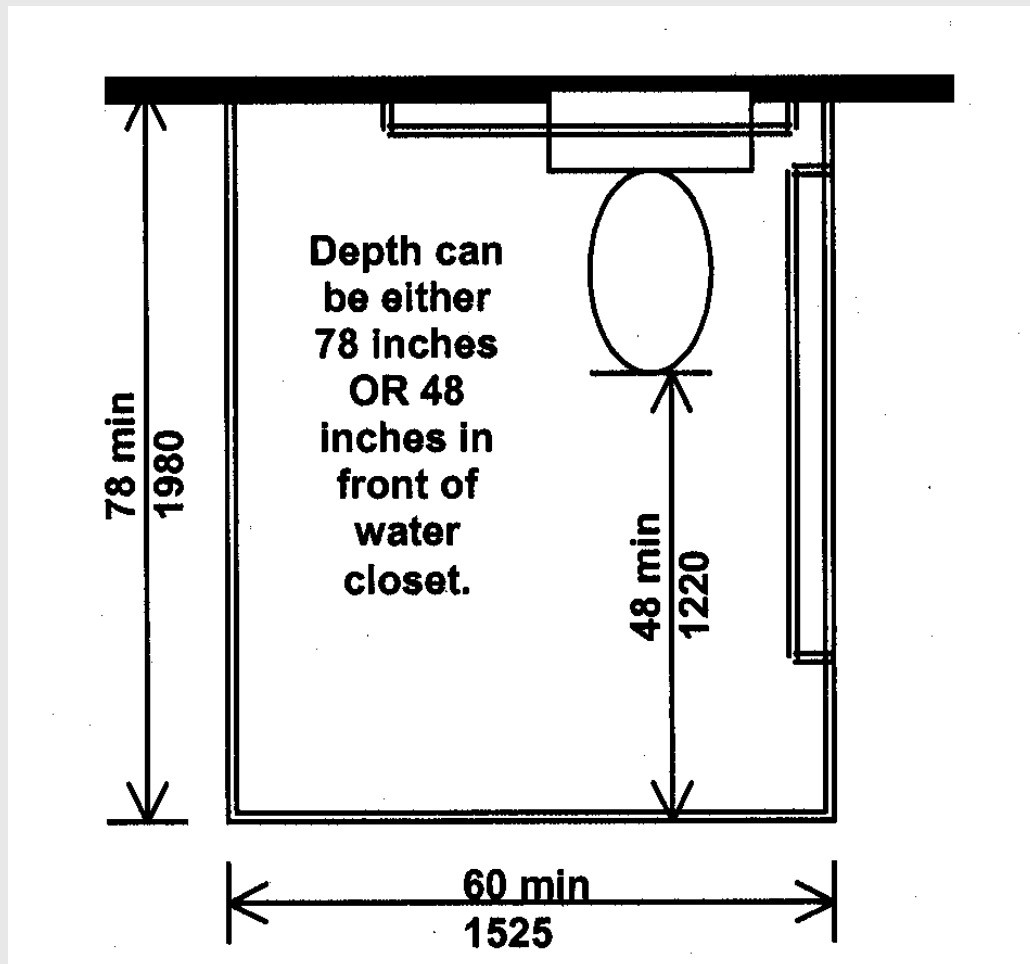


An accessible route of travel should maintain a minimum width of 36 inches, except for where furniture or other obstructions can reduce the width to 32 inches for a maximum 24 inches.

# Protruding Objects

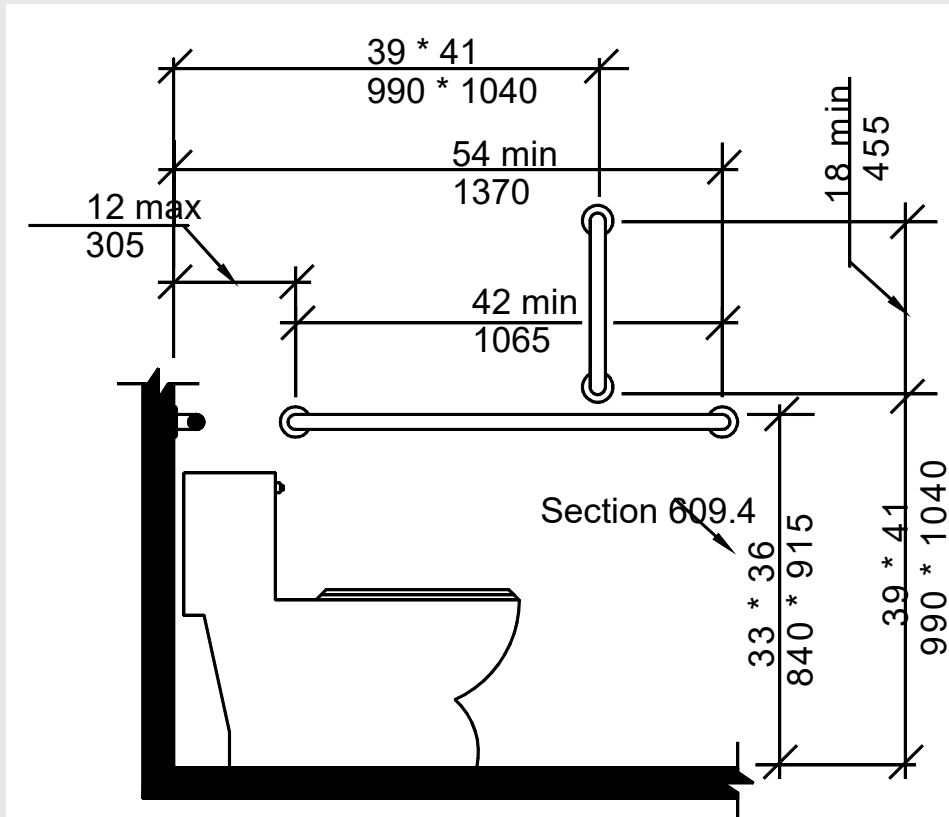


# Accessible Restrooms



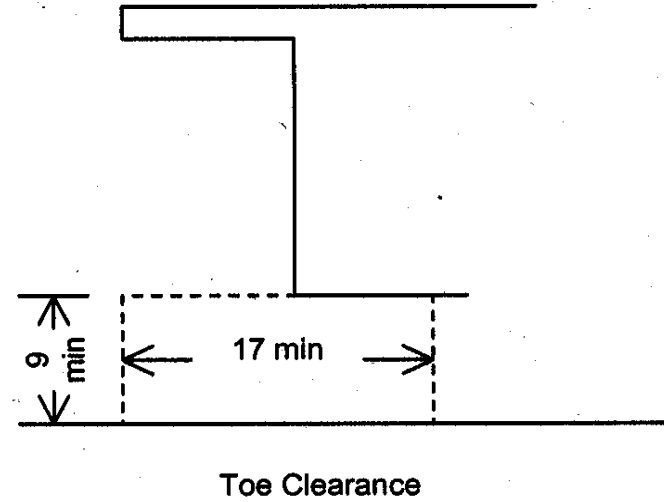
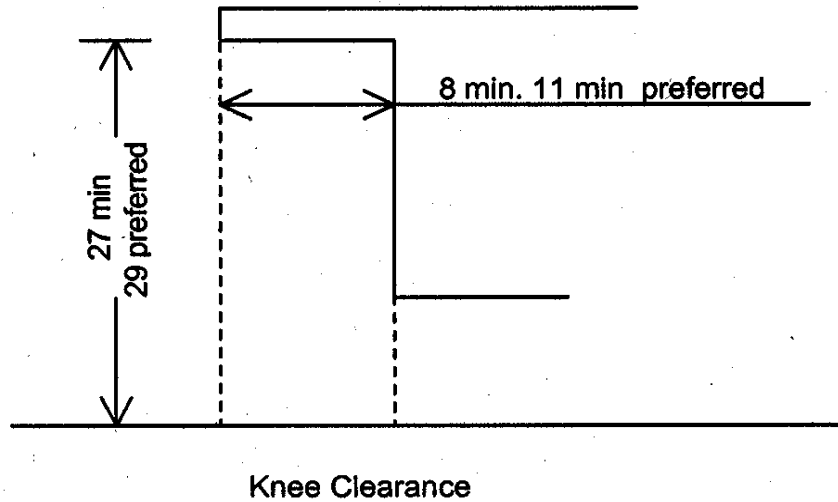
Adequate space needs to be provided so that individuals with disabilities have the space needed for maneuvering.

# Accessible Restrooms (2)



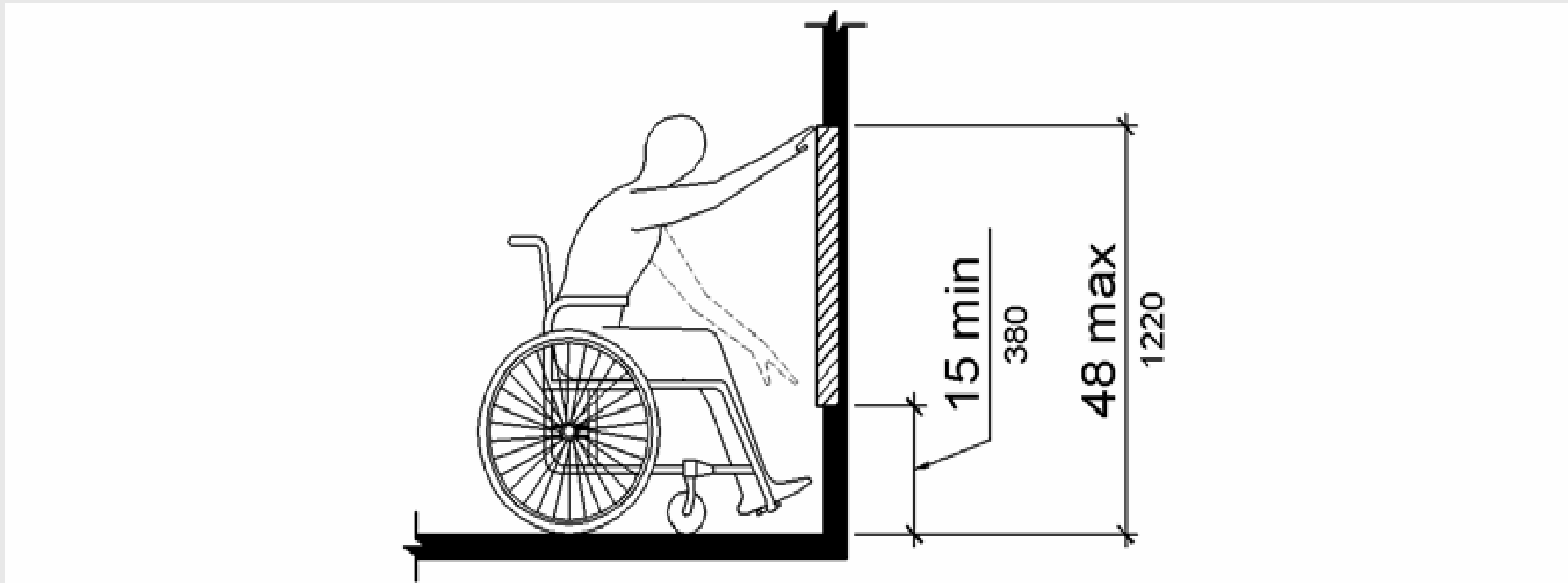
- Grab bars should be provided at side and back walls
- Raised toilet
- Toilet paper dispenser below horizontal grab bar.

# Knee and Toe Clearance

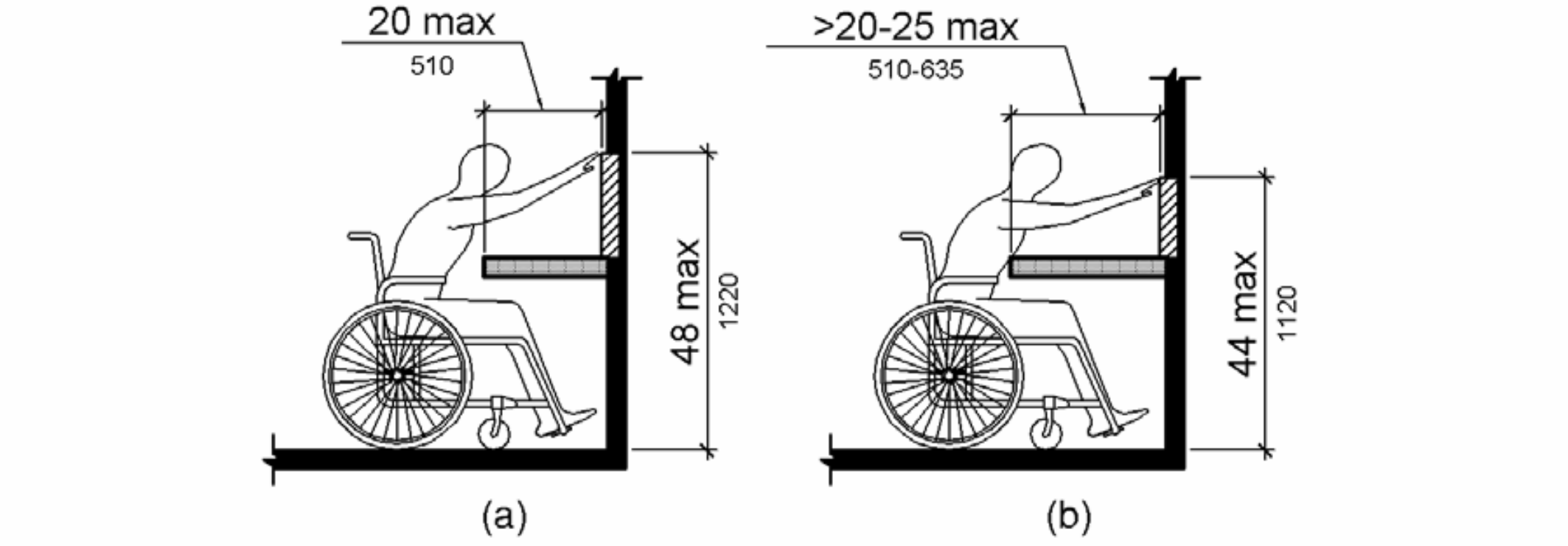




# Forward Reach Range - Unobstructed



# Forward Reach Range - Obstructed



# Place of Lodging Access

- Number of rooms with access features and what features are required depend on when built or renovated
- Look to MN Building Code
- Have accessible room features on website/front desk
- Pool lift
- Bed height 20 – 23 inches
- Portable shower seats
- Communication/emergency features (strobe phone, fire alarm & doorbell)
- Roll in shower

# Barrier Removal Obligation

- Barrier removal obligation is ongoing but there are limits
- New construction standards (current building code) when possible
- Alterations to the level of technically infeasible, be sure to document
- Due to the fact that many businesses have failed to do barrier removal in the past, there is a clear and current sense of urgency

# Alternatives to Barrier Removal

Even if a public accommodation can demonstrate that providing access is not readily achievable, it must still make its goods and services available through alternative methods

- Providing curbside service or home delivery
- Retrieving merchandise from inaccessible shelves or racks
- Relocating activities to accessible location (e.g. rotating movies to the accessible screen in a multi-screen movie theater)

# Readily achievable Barrier Removal Plan

- Identify barriers
- Identify resources
- Create a reasonable timeline for completion
- Identify responsible person
- Implement plan - demonstrate progress

- Building Access Short Survey
- Quick Reference Guides
  - Parking
  - Entrance
  - Bathroom
- Contact Information for Accessibility Specialists
- The guy talking right now

# Tax Credit and Deduction

- Internal Revenue Service (IRS) Code includes a Disabled Access Credit (Section 44) for businesses with 30 or fewer full-time employees or with total revenues of \$1 million or less in the previous tax year
- Section 190 of the IRS Code provides a tax deduction for businesses of all sizes for costs incurred in removing architectural barriers in existing facilities or alterations – the maximum deduction is \$15,000 per year



# Protect Your Business

- The best way to protect your business is to remove barriers
- Identify barriers, put a plan in place, and remove those barriers as quickly as possible
- Not only will barrier removal protect you from litigation – it's the right thing to do

# Historic Designation

- Access to properties open to the public is now a civil right (ADA)
- Historic Designation does not exempt from accessibility requirements
- Strive for accessibility while balancing historic properties of site

Review the historical significance of the property and identify character-defining features

- Nomination file - Local preservation commissions and State Historic Preservation Offices
- Identify which character defining features and spaces must be protected
- Identify secondary spaces finishes and features that may be less important to the historic character
- Identify nonsignificant spaces

Assess the property's existing and required level of accessibility

- Identify accessibility barriers
- Building Access Survey
- Contact Accessibility Specialist
- Use Minnesota building code (Accessibility Code Ch 1341) for technical specs

Evaluate accessibility options within a preservation context

- Phased over time as funds are available
- Interim solutions considered until permanent solutions are implemented
- Reversible whenever possible
- Maintain programmatic access

# Historic Designation Resources

- [SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES \(Pages 69 & 76\)](#)
- [Dept. of Interior: Making Historic Properties Accessible](#)
- [Minnesota Historical Society – Preservation staff](#)
- [State Historic Preservation Office](#)

# Accommodation Topics – Service Dogs

- The Service Dog (or miniature horse) must be “individually trained to do work or perform tasks for the benefit of an individual with a disability.”
- The work or tasks performed by a service animal must be directly related to the handler's disability.
  - Balance
  - Detect and alert to seizures, breathing issues, drops in blood sugar
  - Deep pressure therapy for calm
  - Alert/interrupt/alleviate a panic attack(licking/pawing at handler)

# Accommodation Topics – Service Dogs

## What can you ask?

- DO NOT ask about the *nature or extent* of a person's disabilities.
- You CAN ask two questions, but only if the need for the service dog is not clear:
  1. Is the animal required because of a disability?
  2. What work or task has the animal been trained to perform?



# Accommodation Topics – Service Dogs

## Documentation

- You CANNOT require documentation of certification, training, or licensure as a service animal.
- The federal government does not monitor or regulate this.

# Accommodation Topic – Service Dogs

- The dog must be under the handler's control:
  - Housebroken
  - Leash, tether, vocal control
- Cannot charge surcharge or fees, but can charge for damages

# Minnesota State Statutes

- Minnesota statute 609.833 - It is against the law to misrepresent an animal as a service animal. An emotional support animal is not a service animal and their owners may be liable under this law.
- Minnesota [statute 609.226](#) – It is a misdemeanor for a dog owner who fails to control their dog that results in a service animal being hurt. Any cost associated with the incident may be placed on the dog owner.
- Minnesota [statute 343.21](#) – It is a gross misdemeanor for a person to harm a service animal. Penalty may be imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

# Accommodation Issues - Bathroom

- Planning for an inaccessible bathroom location
- Access to employee-only bathroom
  - Customer
  - Disability that requires immediate access to a bathroom (Ally's Law)
  - 3 or more employees
  - No security threat posed

- Websites and documents should be designed in a way that people with disabilities can access them
- Lawsuits have been increasing around the country with majority of rulings favoring the plaintiffs
- Follow Web Content Access Guidelines (WCAG) 2.0 AA
- Section 508 of the Rehab Act
- <https://www.disability.state.mn.us/information-and-assistance/digital-accessibility/>

- ADA Checklist for Existing Facilities <http://www.ada.gov/racheck.pdf>
- Minnesota Council on Disability (MCD) 651-361-7800  
[www.disability.state.mn.us](http://www.disability.state.mn.us)
- ADA Minnesota 651-603-2015 [www.adaminnesota.org](http://www.adaminnesota.org)
- Great Lakes ADA Center 800-949-4232 [www.adagreatlakes.org](http://www.adagreatlakes.org)
- US Department of Justice 800-514-0301 (V) <http://www.ada.gov>
- US Access Board 800-872-2253 <http://www.access-board.gov>

# Thank You

**David Fenley** [David.fenley@state.mn.us](mailto:David.fenley@state.mn.us) 651.361.7809